

April 9, 2003

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DANA M. SMITH
EXECUTIVE OFFICER

TO: Local Agency Formation Commission

FROM: Executive Officer
Project Manager

SUBJECT: Legislative Report

As California again braces for the upcoming May revise of the state budget, the Governor and state legislators continue to look for new opportunities to help close a budget gap now estimated to be somewhere in between \$26 billion and \$35 billion. As expected, the Vehicle License Fee ("VLF") has been a key area of focus and controversy this year for the Governor, the Legislature, local governments, and California's taxpayers. Recent discussions and debates surrounding the VLF have centered on the potential restoration of the VLF during this year's budget shortfall.

The VLF Debate

In 1998, Governor Pete Wilson signed legislation to provide tax relief to California citizens through a tiered reduction of the VLF triggered during surplus years in the state budget. To protect VLF-dependent local governments from these cuts, the 1998 legislation provided a complete backfill to all cities and counties for lost VLF revenues. To date, the VLF has been cut by a total of 67.5 percent.

The current budget debate in Sacramento focuses on the legal parameters of the 1998 legislation and a reverse trigger mechanism contained in the legislation to restore the VLF during a budget shortfall. Last month, a joint legal opinion was issued by the chief counsels for Governor Gray Davis and state Controller Steve Westly that concluded that a shortage of state moneys can trigger an automatic increase in the VLF that administratively restores the VLF without legislation or voter approval. The opinion provides that Governor Davis's finance director, Steve Peace, can use a series of measures to make a determination that the state cannot afford to continue to backfill local governments for lost VLF revenues and that it is necessary to "pull the trigger" to administratively restore the VLF.

Given the Governor's January proposal to cut the VLF backfill by more than \$4 billion over the next two years, local government groups, including the LOCAL ("Leave Our Community Assets Local") coalition, are mobilizing to support the March VLF legal opinion. It remains uncertain, however, when or if the state will make the move to pull the trigger to restore the VLF.


2003-04 CALAFCO Bills and Other LAFCO Legislation

Staff is continuing to work closely with CALAFCO on 2003 legislation affecting LAFCOs, including three CALAFCO-sponsored bills, AB 192 (Harman), AB 208 (Harman), and AB 518 (Salinas). The table below provides a brief outline of the various bills of interest to LAFCO this year and legislative positions adopted by the Commission last month. Position letters have been transmitted to the authors' offices accordingly.

	Position	Bill Number	Author	Topic
1	Support	AB 192	Harman	Noncontiguous annexations
2	Support	AB 208	Harman	Dissolutions
3	Watch	AB 518	Salinas	Placeholder
4	Watch	AB 520	Salinas	Annexation phasing
5	Watch	AB 838	Spitzer	CC&Rs
6	Watch	AB 1385	Haynes	County water authority
7	Oppose	SB 282	Oller	Incorporations – El Dorado Hills
8	Support	SB 341	SLGC	Public Cemetery District Law
9	Support	SB 487	Torlakson	Special district annexations
10	Watch	SB 865	Hollingsworth	Placeholder

In addition to these bills, staff has also identified **AB 721 (Matthews)** as legislation of special interest to LAFCO. AB 721 contains language that closely resembles a bill from last year, AB 1514 (Canciamilla). As introduced this year, AB 721 would require city and county general plan land use elements to include urban growth boundaries that establish geographic areas to which those cities and counties intend to extend urban services over the next 20 years. AB 721 would require the boundaries to remain in effect for at least 20 years and would restrict the extension of urban services to areas outside an urban growth boundary unless preceded by a general plan amendment to extend the boundary. While the bill requires urban growth boundaries, “to the extent possible,” to be coterminous with city spheres of influence, AB 721 does not address what happens if LAFCO amends a city’s sphere of influence within the 20-year period. Conflicts could arise between urban growth boundaries and spheres of influence.

Last year, the Commission opposed AB 1514 unless amended to only apply to county general plans. Staff sees value, however, to engaging in a collaborative discussion this year with CALAFCO and the author’s office to explore alternative language that seeks to better coordinate city and county general plan land use policies with spheres of influence, including the relationship between city and county general plans for unincorporated territories within cities’ spheres of influence. Staff is recommending that the Commission: (a) *support AB 721 if amended* to include alternative language that better coordinates city general plans, county general plans, and city spheres of influence; and (b) direct staff to work with CALAFCO and the author’s office to craft such language.

The following is a report on 2003-04 bills of interest to LAFCO, including a summary, analysis, and status report of each bill and recommended positions marked with a “” in the left margin.

STAFF RECOMMENDATION

Staff recommends that the Commission:

1. Receive and file the April 9, 2003 Legislative Report.
2. Support AB 721 (Matthews) if amended.

Respectfully submitted,

DANA M. SMITH

KENNETH G. LEE

Bill text is available for viewing and downloading in HTML and PDF formats on the Legislative Counsel's website at <http://www.leginfo.ca.gov>. Hardcopies of bills are also available to the Commission upon request to staff. A copy of the 2003-04 tentative legislative calendar is attached to this report.

Spheres of Influence and General Plans

? AB 721 (Matthews)

As introduced, AB 721 (Matthews) would require city and county general plan land use elements to include urban growth boundaries that establish geographic areas to which those cities and counties intend to extend urban services over the next 20 years. AB 721 would require the boundaries to remain in effect for at least 20 years and would restrict the extension of urban services to areas outside an urban growth boundary unless preceded by a general plan amendment to extend the boundary. While the bill requires urban growth boundaries, "to the extent possible," to be coterminous with city spheres of influence, AB 721 does not address what happens if LAFCO amends a city's sphere of influence within the 20-year period. Conflicts could arise between urban growth boundaries and spheres of influence.

Staff sees value, however, to engaging in a collaborative discussion with CALAFCO and the author's office to explore alternative language that seeks to better coordinate city and county general plan land use policies with spheres of influence, including the relationship between city and county general plans for unincorporated territories within cities' spheres of influence. Staff is recommending that the Commission: (a) *support AB 721 if amended* to include alternative language that better coordinates city general plans, county general plans, and city spheres of influence; and (b) direct staff to work with CALAFCO and the author's office to craft such language.

➤ **Status:** Introduced on Feb. 19.



➤ **Recommendation:** *Support if amended* and direct staff to work with CALAFCO and the author's office on alternative language.

CALAFCO Legislation

Three bills have been introduced this year under the sponsorship of CALAFCO. Two of those bills are authored by Assembly Member Tom Harman, a former Commissioner of Orange County LAFCO, and author of last year's 2002 CALAFCO bill, AB 2227 (Chapter 548, Statutes of 2002).

? **AB 192 (Harman)**

As introduced, **AB 192 (Harman)** proposes to make a minor, technical amendment to the Cortese-Knox-Hertzberg ("CKH") Act that would clarify LAFCO's authority to annex noncontiguous territory to a city. Under existing law, LAFCO may approve the annexation of noncontiguous territory to a city if: (a) the territory is owned by the city and is presently used for municipal purposes, and (b) the annexation does not exceed 300 acres in area. There is currently some confusion under the existing language in the law about whether the 300-acre limitation applies only to a single annexation proposal, or if it more restrictively applies to the total cumulative amount of noncontiguous land in a city. The bill clarifies that the limitation only applies to the subject application and not to a city's total cumulative amount of noncontiguous territory. CALAFCO anticipates that AB 192 will likely also be the home for other more substantive legislative proposals in 2003.

➤ **Status:** Introduced on Jan. 27. April 30 hearing date scheduled in Assembly Local Government Committee.

➤ **Position:** *Support*

? **AB 208 (Harman)**

Dissolutions of special districts have historically been a sensitive and contentious topic of discussion for special districts and LAFCOs, both at the local and state levels. To help bridge the gap, CALAFCO is proactively working with various stakeholder groups in Sacramento this year to elevate a cooperative and collaborative discussion about the

fundamental policies and legislative intent that define the nature and scope of dissolutions within the local government arena. To begin that discussion, CALAFCO has sponsored and proposed language in **AB 208 (Harman)** which highlights CALAFCO's preliminary perspectives on the nature and purpose of dissolutions relative to LAFCO's broader mission and legislative charge to promote efficient, cost-effective, and reliable government.

As introduced, AB 208 carries language that was previously introduced in the first version of last year's CALAFCO bill, AB 2227. The proposed language was removed early on from the bill, however, in response to a request made by the Association of California Water Agencies ("ACWA") to "table" the language until CALAFCO and ACWA had greater opportunity to raise high-level discussions about the role that dissolutions play in LAFCO's mission, and within LAFCO's responsibility to review the structural relationships of local governments in California. To provide a basis for that discussion, AB 208 sets forth clarifying language that affirms LAFCO's authority to dissolve an agency *and* designate a successor agency to carry out the functions and operations of the extinguished agency.

Staff concurs and is in alignment with CALAFCO's efforts to elevate a broader, high-level discussion about dissolutions with various stakeholders. CALAFCO and ACWA are currently in active discussion and are exploring alternative language that provides maximum flexibility to both LAFCOs and special districts to effectuate changes of (re)organization that ultimately benefit California's ratepayers.

- **Status:** Introduced on Jan. 28. April 30 hearing date scheduled in Assembly Local Government Committee.
- **Position:** *Support*

? **AB 518 (Salinas)**

This bill is also sponsored by CALAFCO. As introduced, **AB 518 (Salinas)** contains "placeholder" language for more substantive legislative proposals CALAFCO will seek to sponsor in 2003-04 in conjunction with AB 192 (Harman).

- **Status:** Introduced on Feb. 18.
- **Position:** *Watch*

Incorporations and Commercial/Industrial CC&Rs

? **AB 838 (Spitzer)**

Orange County Assemblyman, and former County Supervisor, Todd Spitzer has introduced a bill, **AB 838 (Spitzer)**, to address a local issue in the City of Rancho Santa Margarita ("RSM") concerning conflicts between the City's local zoning ordinances, regulations, and general plan policies and the covenants, conditions, and restrictions ("CC&Rs") of RSM's

master business association, SAMCORP, that regulate commercial and industrial real property in the City. Academically, AB 838 raises an interesting topic and case study about two very different, yet very related, sets of constitutional powers and rights. CC&Rs are enforceable through private contracts between landowners. Zoning regulations and general plan policies are enforceable through a city's constitutional police power to plan for land use. Both apply. But what happens if there's a conflict?

AB 838 would provide that a city's general plan policies and local zoning regulations prevail where there is a conflict with a business association's commercial and industrial CC&Rs. Although the bill was introduced to address local issues in RSM, it applies to all cities that incorporated on or after January 1, 1999. The bill may, therefore, also impact a number of other new cities in the state, including, but not limited to, the cities of Laguna Woods, Aliso Viejo, Oakley, Elk Grove and Rancho Cordova.

- **Status:** Introduced on Feb. 20. April 30 hearing date scheduled in Assembly Local Government Committee.
- **Position:** *Watch*

Special Legislation

? **AB 520 (Salinas)**

This bill is special legislation out of Santa Cruz County that seeks to legislatively facilitate a very unique form of ballot box planning in the City of Watsonville. After decades of conflict over growth, development, and annexations in Watsonville, local voters passed a long-range plan last November 2002 detailing when, where, and how development and annexations will occur in the City over the next 25 years. The long-range plan sets forth a phased development approach with specific trigger mechanisms for the phased annexation of the various planning areas to the City.

Phasing Annexations

To facilitate the phasing of annexations, LAFCOs typically require cities to submit separate, individual annexation applications for each phase of the development. Such an approach would require, however, that LAFCO's approvals of the applications also be phased over the span of the 25-year period. Given the political climate in Watsonville, public and private stakeholders of the project have determined that there would be too much risk in entrusting a future elected body to carry out the future phased annexations in good faith with the ballot measure. Stakeholders are therefore exploring the ability of LAFCO to approve all of the phases today and stagger the effective dates of the various phases for the future. **AB 520 (Salinas)** would provide that ability by waiving a statutory limitation for Santa Cruz LAFCO on how far out it can set an effective date from the date the voters approve an annexation phase.

CALAFCO is working with the author's office to refine the bill and explore additional options, both local and statutory, for the phasing of annexations in Watsonville. As introduced, staff does not believe AB 520 will have any long-term precedent-setting or negative impacts on LAFCOs.

- **Status:** Introduced on Feb. 18. April 2 hearing date scheduled in Assembly Local Government Committee.
- **Position:** *Watch*

? **SB 282 (Oller)**

El Dorado LAFCO has been working with El Dorado Hills community leaders for many years now on the proposed incorporation of the area. The project is highly contentious and politicized, so much so that local representatives are now asking the state to step in and legislatively approve the incorporation subject to an election with no local discretion by LAFCO or the County of El Dorado. **SB 282 (Oller)** would legislatively make determinations on local criteria and requirements within the incorporation process, including the payment of LAFCO processing fees, satisfaction of CEQA, review of the Comprehensive Fiscal Analysis, findings for revenue neutrality, approval of the incorporation, and the conduct of protest proceedings. SB 282 is the perfect example of special legislation to circumvent the local process and thereby circumvent local politics. SB 282 is bad public policy and is in conflict with multiple Orange County LAFCO legislative policies.

- **Status:** Introduced on Feb. 18. Referred to Senate Local Government Committee on Feb. 25.
- **Position:** *Oppose*

General LAFCO Legislation

? **AB 1385 (Haynes)**

Under the CKH Act, LAFCO has broad authority to set terms and conditions for proposals, including terms and conditions for the establishment or transfer of priorities of use, right of use, and/or capacity rights in any public water system. **AB 1385 (Haynes)** would establish specific provisions to govern the transfer of capacity rights to and from a county water authority. Specifically, AB 1385 would provide that lands detached from a county water authority shall continue to own capacity rights in the county water authority's system as necessary or convenient for the continued delivery of water to the detached lands.

AB 1385 was introduced to address the potential detachment of several retail water agencies in north San Diego County from the San Diego County Water Authority ("SDCWA"). AB 1385 would protect those agencies' capacity rights to imported water in the Metropolitan

Water District of Southern California (“Met”) water system and through SDCWA facilities. AB 1385 would not impact Orange County water agencies or Orange County LAFCO.

- **Status:** Introduced on Feb. 21. April 30 hearing date scheduled in Assembly Local Government Committee.
 - **Position:** *Watch*
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? **SB 341 (Senate Local Government Committee)**

This bill represents the next step in a series of collaborative efforts by the Senate Local Government Committee to work with various stakeholder organizations to comprehensively rewrite various antiquated special district enabling acts. In 2001, the Committee authored a rewrite of the Recreation and Park District Law. In 2002, the Committee spearheaded a rewrite of the old Mosquito Abatement and Vector Control District Law. This year, the Committee is working with a number of stakeholder groups, including CALAFCO, to comprehensively rewrite the Public Cemetery District Law.

- **Status:** Introduced on Feb. 19. April 2 hearing date scheduled in Senate Local Government Committee.
 - **Position:** *Support*
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? **SB 487 (Torlakson)**

In 2002, the California Building Industry Association (“BIA”) sponsored a bill, SB 1586 (Haynes), that would have required a special district to make specific new findings before terminating a proposal to annex territory to that district. Under existing law, if LAFCO receives an application to annex territory to a special district from a party other than the district, the annexing district may unilaterally request that LAFCO terminate the proposal without just cause or reason. The BIA found this unilateral “veto” power of special districts to be unfairly onerous to developers, particularly where a district has terminated annexation and denied the extension of services to a property for reasons entirely unrelated to the development or the service-related operations of the district.

SB 1586 would have required a district’s request to terminate annexation proceedings to be “based upon written findings supported by substantial evidence in the record that the request is justified by a financial or service related concern.” Unfortunately, SB 1586 was chaptered out last year by AB 2227, CALAFCO’s 2002-sponsored bill, despite a joint effort by CALAFCO and the BIA to urge the Governor to sign AB 2227 prior to SB 1586 to avoid chaptering one bill out with the other.

As amended on March 24, 2003, **AB 487 (Torlakson)** mirrors SB 1586. LAFCO concurs with the intent of SB 487 to create a nexus between a district's "veto" of an annexation with the district's actual operations.

- **Status:** Introduced on Feb. 20. Amended March 24. April 2 hearing date scheduled in Senate Local Government Committee.
 - **Position:** *Support*
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? **SB 865 (Hollingsworth)**

This bill contains placeholder language that addresses noticing requirements for proposals affecting certain cities in Los Angeles County.

- **Status:** Introduced on Feb. 21. Referred to Senate Local Government Committee on March 13.
 - **Position:** *Watch*
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2003-2004 TENTATIVE LEGISLATIVE CALENDAR

DEADLINES

2002

Dec. 2 Convening of the 2003-04 Regular Session (Art. IV, Sec.3(a)).

2003

Jan. 1 Statutes take effect (Art. IV, Sec. 8 (c)).

Jan. 6 Legislature reconvenes (J.R. 51 (a) (1)).

Jan. 10 Budget must be submitted by Governor (Art. IV, Sec. 12 (a)).

Jan. 24 Last day to submit bill requests to the Office of Legislative Counsel.

Feb. 21 Last day for bills to be introduced (J.R. 54(a)).

Apr. 10 Spring Recess begins at end of this day's session (J.R.51(a)(2)).

Apr. 21 Legislature reconvenes (J.R. 54(a)(2)).

May 2 Last day for policy committees to hear and report Fiscal Committees fiscal bills introduced in their house (J.R. 61(a) (2)).

May 9 Last day for policy committees to hear and report non-fiscal bills introduced in their house to floor (J.R. 61(a)(3)).

May 23 Last day for policy committees to meet prior to June 9 (J.R. 61(a)(4)).

May 30 Last day for Fiscal Committees to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)).

May 30 Last day for Fiscal Committees to meet prior to June 9 (J.R 61 (a) (6)).

June 6 Last day for bills to be passed out of the house of origin (J.R 61(a)(7)).

June 9 Committee meetings may resume (J.R. 61(a)(8)).

June 15 Budget must be passed by midnight (Art. IV, Sec. 12(c)).

July 11 Last day for policy committees to meet and report bills (J.R. 61(a)(9)).

July 18 Summer Recess begins at the end of this day's session if Budget Bill has been enacted (J.R. 51(a)(3)).

Aug. 18 Legislature reconvenes (J.R. 51(a)(3)).

Aug. 29 Last day for Fiscal Committees to meet and report bills to Floor (J.R. 61 (a) (10)).

Sept. 1 - Floor session only. No committees, other than Committee on Rules or conference committees, may meet for any purpose (J.R. 61(a)(11)).

Sept. 5 Last day to amend bills on the Floor (J.R. 61 (a)(12)).

Sept. 12 Last day for each house to pass bills (J.R.61(a)(13)).

Sept. 12 Interim Study Recess begins at end of this day's session (J.R.51(a)(4)).

Oct. 12 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 12 and in his possession on or after Sept. 12 (Art. IV, Sec. 10(b)(1)).

2004

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 5 Legislature reconvenes (J.R. 51 (a) (4)).